

Our Ref: 201210034

19 June 2012

Edwin (Ted) Thomas Midlane
Legal Consultants Limited
13 Beacon Avenue
Campbells Bay
AUCKLAND 0630

Dear Edwin (Ted)

APPLICANT – Nirvana Capital (NZ) Limited as trustee of the Verstraete Family Trust

We refer to the Application letter dated 24 February 2012.

We attach:

- (a) Notice of decision; and
- (b) Proposed decision summary.

A GST invoice for the Application fee that was paid by the Applicant will be sent to you separately.

The notice of decision describes the decision made by officials under delegation and includes the conditions that apply to the consent.

The proposed decision summary contains the information the Overseas Investment Office proposes to release to the public.

If you wish to make any changes to the decision summary to withhold information, you must make direct reference to the provisions of the Official Information Act 1982 that you consider justify the withholding of the information and you should write to **PETER HILL** (prhill@linz.govt.nz) by **12pm on 3 July 2012**, detailing the suggested changes.

Please consult the practice guidelines issued by the Office of the Ombudsmen before writing to us.

If we have not heard from you by **12pm on 3 July 2012**, we will publicly release the decision summary without further reference to you.

Yours sincerely

Phillip Anderson - Senior Solicitor
Overseas Investment Office

Overseas Investment
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Decision

Consent has been granted to **Nirvana Capital (NZ) Limited as trustee of the Verstraete Family Trust**, or a 100% subsidiary of **Nirvana Capital (NZ) Limited as trustee of the Verstraete Family Trust** (the Applicant), giving effect to a transaction which will result in:

- An overseas investment in sensitive land, being the Applicant's acquisition of a freehold interest in 20.0098 hectares of land being Lot 14 of Mataka Station located at Rangihoua Road, Kerikeri.

(the Investment)

Consent is granted subject to the following conditions:

Statutory Conditions of Consent

Section 28 of the Overseas Investment Act 2005 (the Act) provides that it is a condition of every consent, whether or not it is stated in the consent, that

- (a) The information provided by each applicant to the regulator or the relevant Minister or Ministers in connection with the application is true and correct at the time it was provided; and
- (b) Each consent holder must comply with the representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the consent is granted, unless compliance should reasonably be excused.

For the purposes of section 28, the Overseas Investment Office has taken into account the following information:

- (a) The Applicant's letters dated 24 February 2012 and all attachments annexed to those letters (where applicable) which were submitted to the Overseas Investment Office in support of the application by the Applicant to acquire the investment and related assets.

Special Conditions

1. The consent will lapse if the Investment has not been acquired by and transferred to the Applicant within twelve months of the date of consent.
2. The Applicant must notify the Overseas Investment Office in writing as soon as practicable, and no later than twelve months from the date of consent, whether settlement of the acquisition of the Investment took place. If settlement of the acquisition of the Investment did take place, the notice must include:
 - (a) the date of settlement;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and whether an associate of the Applicant acquired the Investment;
 - (d) where applicable, copies of transfer documents and settlement statements; and

- (e) any other information that would aid the Overseas Investment Office in its function to monitor conditions of consent.
3. The Applicant, or the individuals with control of the Applicant, must:
- (a) continue to be of good character; and
 - (b) not become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.
4. The Applicant must notify the Overseas Investment Office within 28 working days if the Applicant:
- (a) or any person in which the Applicant has, or had at the time of the offence or contravention, a 25% or more ownership or control interest, commits an offence or contravenes the law (whether convicted or not); or
 - (b) ceases to be an overseas person; or
 - (c) sells the Investment.
5. The Applicant must report in writing to the Overseas Investment Office providing evidence of compliance with condition 3 no earlier than six months from the date of consent and no later than twelve months from the date of consent.
6. Within four years from the date of consent Marc Verstraete and Martine Claeys must:
- (a) be ordinarily resident in New Zealand (as defined in section 6(2) of the Overseas Investment Act 2005); and
 - (b) provide a statutory declaration to the Overseas Investment Office stating that Marc Verstraete and Martine Claeys are ordinarily resident in New Zealand.
7. If Marc Verstraete and Martine Claeys fail to comply with condition 6 above, or at any time lose the lawful right to live and work in New Zealand, the Applicant must take immediate steps to:
- (a) appoint recognised real estate agents; and
 - (b) actively market the Investment through those recognised real estate agents and undertake to accept any fair and reasonable offer for the Investment; and
 - (c) dispose of the Investment as soon as practicable, but not later than twelve months from the date of appointing real estate agents; and
 - (d) report to the Overseas Investment Office in writing two monthly, up to and inclusive of the month of disposal of the Investment, as to the status and marketing of the Investment. The report must contain documentary evidence of the marketing and disposal of the Investment, including, but not limited to, copies and dates of advertising material, all offers received in relation to the Investment and the settlement statement for the Investment; and
 - (e) within two months of the date of disposal of the Investment, provide the Overseas Investment Office with:
 - (i) a copy of the certificate of title for the Investment, which records the name of the new purchaser(s); and
 - (ii) evidence that the new purchasers are not a nominee of the Applicant or otherwise acting in concert with the Applicant under any contract, arrangement or understanding in relation to the Investment.

Monitoring Conditions of Consent

For the purpose of monitoring conditions of consent, the Overseas Investment Office may, under section 38 of the Act, require the Applicant to provide information or documents, or both, that are specified in the notice. Under section 40 of the Act, the Overseas Investment Office may also require the Applicant to provide a statutory declaration verifying the extent to which the Applicant has complied with the conditions of consent, and, if the Applicant is in breach of a condition or conditions, the reasons for the breach and the steps the Applicant intends to take to remedy the breach.

Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with conditions of consent and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

General

A reference to the "Overseas Investment Office" in this Notice includes a reference to the regulator (as defined by the Act).

Dated at Wellington this 19th day of June 2012

Phillip Anderson - Senior Solicitor
Overseas Investment Office

Released under the Official Information Act 1982